*Maxmillian* v. *The Mayor,* 62 N. Y. 160; *Ham* v. *New York,* 70 N. Y. 459; *Fire Ins. Co.* v. *Village of McKeesville,* 148 N. Y. 46; *Esberg-Gernst Cigar Co.* v. *City of Portland,* 34 Ore. 282, 43 L. R. A. 435; *Hill* v. *Boston,* 122 Mass. 344. Applying this principle, is a city in maintaining a police station acting in a governmental or private capacity? The duty of establishing a police department is imposed upon a city to aid the state in effectually carrying out its police powers, and clearly is not for the private advantage and emolument of the city, but for public purposes. This view is substantiated by the fact that the law considers the police department and its officers not as agents of the city but of the state. ELLIOT MUNIC. CORP., § 31; DILLON MUNIC. CORPS, §§ 60, 210, 975, and cases cited. The establishment and operation of a police station would seem to be incidental to maintaining a police department, and therefore the city's duty as to both would be governmental. A city in maintaining a jail is acting in its public character. *Blake* v. *City of Pontiac,* 49 Ill. App. 543; *Brown's Admr's* v. *Guyandotte,* 34 W. Va. 299, 12 S. E. 707; *Gullikson* v. *McDonald,* 62 Minn. 278, 64 N. W. 812; *La Clef* v. *City of Concordia,* 41 Kas. 323, 21 Pac. 272; *City of New Kiowa* v. *Craven,* 46 Kas. 114, 26 Pac. 426; *Moffett* v. *Ashville,* 103 N. C. 237; *Eddy* v. *Village of Ellicotville,* 54 N. Y. Supp. 800. It seems that in principle the same rule should apply to maintaining police stations as jails, for the one usually includes the other. There is no reason why the duty which a city is fulfilling in building and maintaining a city hall should be more governmental in its nature than in keeping up a police station building, yet it was held in *Snider* v. *City of St. Paul,* 51 Minn. 466, 53 N. W. 763, 18 L. R. A. 151, that the city was not liable for injuries sustained by falling into an elevator shaft in the city hall due to the negligence of the city's employees, and in *Eastman* v. *Meredith,* 36 N. H. 284, that the city was not liable for injuries caused by the floor of the city hall giving way during a town meeting, the accident being due to the negligent construction of the building.

MUNICIPAL CORPORATIONS—POWER TO GRANT EXCLUSIVE PRIVILEGES.—Defendant city, with the usual general authority to supply itself and inhabitants with light and water and to enter into contracts with reference thereto, executed a contract with complainant's assignors for the city's light and water supply for thirty years, making it in terms exclusive. A few years later the city contracted with another company giving it also the right to furnish light and water. On application for an injunction to restrain the city from proceeding further under the second contract, the complainant claiming that it had an exclusive privilege, it was *held* not within the defendant city's power to grant such a privilege, that the contract in so far as it related to exclusiveness was void; and that, therefore, the injunction should be refused. *Water, Light & Gas Co.* v. *City of Hutchinson et al.* (1906), C. C. D. Kan. 144 Fed. Rep. 256.

This case is of peculiar interest in view of the recent decision of the United States Supreme Court in the case of *Vicksburg* v. *Vicksburg Waterworks Co.,* 202 U. S. 453, 26 Sup. Ct. Rep. 660, commented upon in 5 MICH. LAW REV. 42. In both cases the privilege granted was in terms exclusive,

the language of the two contracts being almost identical; while the only distinction between the cases is that in the *Vicksburg case* it was the city itself that attempted to erect a water plant and thus defeat the terms of the grant. If the contract in the *Vicksburg case* was valid, as held by the Supreme Court, there would seem to be no reason in principle why it should not have been so held in the principal case. The decision in the *Vicksburg case* evidently had not been handed down at the time the principal case was decided, for the court makes no reference to it.

PARENT AND CHILD—CUSTODY—ABANDONMENT—ADOPTION.—A husband living apart from his wife left his minor daughter with his mother while he sought employment in another city. During his absence the child was surrendered to a charitable institution by its mother and later was adopted into the family of defendant. In an action by the father to recover the possession of the child, *Held,* that his acts did not amount to an abandonment and that the adoption proceedings were void for want of jurisdiction. *State ex rel Le Brook* v. *Wheeler et al.* (1906), — Wash. —, 86 Pac. Rep. 394.

A statute of Washington authorized the commitment of a minor child upon five days notice of the proceedings being given to the parents. In this case the mother charged abandonment against the father and confessed service and no notice of the proceeding was given to the father. The defense relies chiefly on the order of the superior court committing the child, contending that the judgment of that court cannot be attacked in this collateral proceeding. As to judgments of domestic courts of record of general jurisdiction, jurisdiction is conclusively presumed unless the record itself discloses a failure thereof. *Carpenter* v. *City of Oakland,* 30 Cal. 440; *McCormick* v. *Sullivant,* 10 Wheaton 192; *Granger* v. *Clark, 22* Me. 128; *Rogers* v. *Beauchamp,* 102 Ind. 33. Courts of limited powers must not only act within the scope of their jurisdiction but it must appear that they so acted on the face of the proceedings. *Haywood* v. *Collins,* 60 Ill. 328; *Prentice* v. *Parks,* 65 Me. 559. The argument for the defense proceeded upon the erroneous assumption that there had been an abandonment and that the father had thereby waived his right to notice of the proceedings. The record disclosing a failure to comply with the provision of the statute and the proceeding being statutory, the judgment is open to collateral attack. That a father has the paramount right of custody against the world, see *U. S.* v. *Green,* 3 Mason 482; *Washaw* v. *Gamble,* 50 Ark. 351; *Shields* v. *O'Reilly,* 68 Conn. 256: But he may forfeit that right by abandonment: *Brinston* v. *Compton,* 68 Ala. 299; *Merritt* v. *Swimley,* 82 Va. 433; *Nugent* v. *Powell,* 4 Wyo. 173. It follows: The society never had the legal custody of the child and could not therefore consent to its adoption. By the great weight of authority in this country the father is entitled to the custody and society of his child during its minority and before it can be said that he has waived that right courts are agreed that the evidence must show an intent to forego the parental obligation of maintenance and support. The court very properly held that the father was entitled to the custody of the child.